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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) 835/2024 & I.A. 40557/2024, I.A. 40558/2024, I.A. 40559/2024, I.A. 40560/2024

SHOPPERS STOP LIMITED

.....Plaintiff

Through: Mr. Sagar Chandra, Ms. Shubhie Wahi, Ms. Sanya Kapoor, Advocates
(M:8130910708)

versus

APRIL MOON RETAIL PRIVATE LIMITED

.....Defendant

Through: Ms. Meghna Mishra, Ms. Shriya Misra, Ms. Yashodhara Gupta, Advocates (M:9873232846)

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER
03.10.2024

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I.A. 40559/2024 (Under Section 151 of CPC seeking exemption from filing clearer, typed copies and vernacular and originals of documents)

1. The present application has been filed on behalf of the plaintiff under Section 151 of the Code of Civil Procedure, 1908 ("CPC") seeking exemption from filing clearer, typed copies and vernacular and originals of documents.

2. Exemption is granted, subject to all just exceptions.

3. Accordingly, the present application is disposed of.

I.A. 40560/2024 (Exemption from instituting Pre-Institution Mediation)

4. The present is an application under Section 12A of the Commercial



Courts Act, 2015, read with Section 151 CPC, seeking exemption from undergoing Pre-Institution Mediation.

5. Since the matter is being heard and being disposed of, in view of the undertaking given by the defendant, the present application is disposed of.

I.A. 40558/2024 (Application seeking leave to file additional documents)

6. This is an application under Order XI Rule 1(4) read with Section 151 CPC as amended by the Commercial Courts Act, 2015, seeking leave to file additional documents.

7. In view of the fact that the matter is taken up for hearing today and is being disposed of in view of the undertaking of the defendant, the application is disposed of.

CS(COMM) 835/2024 & I.A. 40557/2024

8. The present suit has been filed for permanent injunction restraining infringement of trademark, copyright, passing off, dilution, unfair competition, initial interest confusion, delivery up, rendition of accounts, damages, etc.

9. The following facts have been canvassed on behalf of the plaintiff in the plaint:

9.1 The plaintiff was established in the year 1977 under the name and style of 'Shoppers Stop Ltd.' and has been continuously and uninterruptedly using the name 'SHOPPERS STOP' since 1997 as a trade name.

9.2 The trade name 'SHOPPERS STOP' was first adopted in 1991 by the plaintiff's predecessor in interest, Ivory Properties & Hotels Ltd. ("IPHL"). The said trade name was used in relation to retailing services to be rendered through large format departmental stores/shopping centres/malls for sale of various goods.



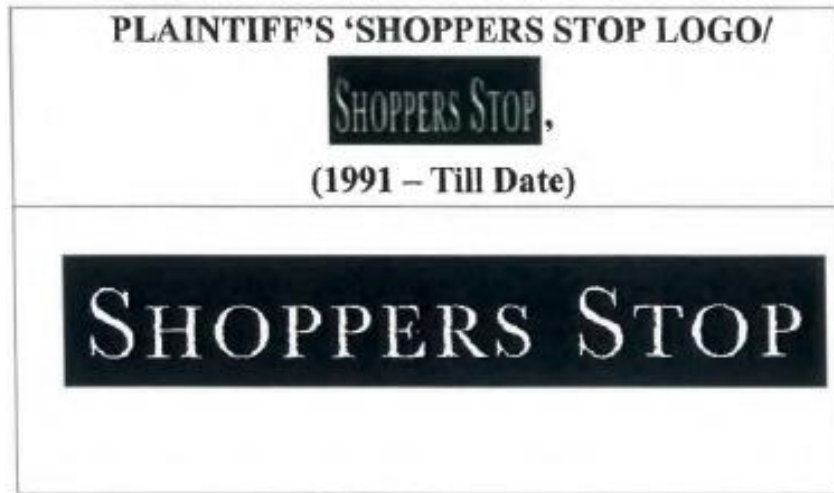
9.3 Subsequently, by virtue of an Assignment Deed dated 31st March, 2000 with effect from 1997, IPHL assigned all its rights, title and interest along with its goodwill in the Trade Mark ‘SHOPPERS’ STOP’, in favour of the plaintiff.

9.4 The Plaintiff has been marketing and retailing its goods, *inter alia*, through a number of its own departmental/retail stores and/or standalone shopping malls located in different cities throughout India under the name of “SHOPPERS STOP”.

9.5 It is submitted that plaintiff has been using the mark ‘SHOPPERS’ STOP’ uninterruptedly till date. In or around the year 2007, the Plaintiff dropped the apostrophe (’) from the Mark SHOPPERS’ STOP and has thereafter continuously and in an uninterrupted manner used the mark ‘SHOPPERS STOP’ in relation to its retailing services.

9.6 This Court has declared that the Trade Mark “SHOPPERS STOP” of the plaintiff as a well-known mark as defined under Section 2(1) (zg) of the Trade Marks Act, 1999 in the case of *Shoppers Stop Ltd. v. Vinod’s Shoppers Stop* bearing CS(OS) No. 458/2015, vide judgment dated 19th September, 2016.

9.7 It is submitted that the Trade Mark/ Logo ‘SHOPPERS STOP/  of the plaintiff is a highly distinctive and unique device mark that contains a stylized representation of the Trade Mark/Logo “SHOPPERS STOP” written in white font against a black background which is depicted in a stylized font. The same has been reproduced herein below:



9.8 It is further submitted that the plaintiff's Trade Mark/Logo 'SS
Logo/  is also a highly distinctive and unique device mark that contains a stylized representation of the letters 'SS' written in an interlinked fashion in white font against a black background depicted in a stylized font. The same has been reproduced hereinbelow:





9.9 The Trade Marks/Logos ‘SHOPPERS STOP’ , ‘SS’  and ‘SSBEAUTY By SHOPPERS STOP’ / , are ‘Artistic Work’(s) within the meaning of Section 2(c) of the Copyright Act, 1957. Therefore, in light of the same, the plaintiff is the absolute owner of the Copyright in the Artistic Work(s) , , , and  by virtue of Section 17(c) of the Copyright Act, 1957.

9.10 It is submitted that in and around September, 2024, the plaintiff came across a retail store/ shop/marketplace ‘SHOPPERS COVEN’ being fitted out currently and to be launched in the next few days located at Passenger Terminal Building T1 domestic departure SHA, Kempegowda International Airport, Devanahalli, Bangalore- 560300 bearing the Mark/Logo ‘SHOPPERS COVEN’ which is deceptively similar to the plaintiff’s registered and well known trademark/logo ‘SHOPPERS STOP’.

9.11 The plaintiff was further shocked to come across the use of the marks/logos / , which are not only deceptively similar to the plaintiffs registered and well-known trademark/logo



‘SHOPPERS STOP/, SS Logo/ and
‘SSBEAUTY By SHOPPERS STOP//, but also
the manner of representation that has been adopted for the said impugned
logos / is also deceptively similar to the manner of
representation of the plaintiffs marks/logos ‘SHOPPERS
STOP/, ‘SS Logo/ and ‘SSBEAUTY By
SHOPPERS STOP//.

9.12 The images/photographs of the retail store bearing the impugned marks, as given in the plaint, is reproduced as under:





9.13 The table showing the comparison between the plaintiff's registered marks and the impugned marks of the defendant, as given in the plaint, is as under:



PLAINTIFF'S REGISTERED MARKS/LOGOS	IMPUGNED MARKS/LOGOS
	
	

9.14 Pursuant thereto, the plaintiff also came across the defendant's Trade Mark Application bearing No. 6538012 dated 22nd July, 2024 for the Mark 'SHOPPERS COVEN' in Class-35, filed on a '*proposed to be used*' basis.

9.15 Thus, the plaintiff also issued a cease and desist notice dated 20th September, 2024 to the defendant. Subsequently, the present suit has been filed.

10. Today, Ms. Meghna Mishra, learned counsel, has put in appearance on behalf of the defendant. She has handed over a copy of the letter dated 01st October, 2024, wherein, the defendant has categorically stated that defendant-company has decided to drop the usage of the logo and name "Shoppers Coven" from their store. Copy of the letter dated 01st October, 2024, as handed over to this Court is taken on record. The same reads as under:

"1st October, 2024

To,

Meghna Mishra

Senior Partner

Karanjawala & Company Advocate

New Delhi



*Sub: Shoppers Stop Limited v. April Moon Retail Private Limited
bearing CS(COMM) No. 835/2024 before the Hon'ble High Court of
Delhi*

Dear Madam,

**With reference to the captioned subject, we would like to inform that
the Company has decided to drop the usage of Logo and name
"Shoppers Coven" for our Store.**

Hence we can close the matter.

Thanking You

For April Moon Retail Private Limited

***Sunny Jain
Authorised Signatory"***

(Emphasis Supplied)

11. Learned counsel for the plaintiff submits that he is satisfied by the aforesaid statement given by the defendant.
12. The defendant is held bound by the aforesaid statement made vide letter dated 01st October, 2024.
13. Considering the aforesaid submissions, the present suit, along with pending applications, is disposed of.

MINI PUSHKARNA, J

OCTOBER 3, 2024
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